Business Law PYQ 2018

Q1 a State with reasons in brief whether the following statements are True or False :

(i)Collateral transactions to an illegal agreements do not become void.

(ii)Agreement in restraint of legal proceedings if valid.

(iii)Contingent contracts are void.

Ans. (i) False. Collateral transactions to illegal agreements are also void. This is because the law does not recognize any transaction that supports or furthers an illegal agreement.

(ii) False. Any agreement that restrains a party from enforcing their legal rights is void under Section 28 of the Indian Contract Act, 1872. This is because the law provides for the right of every individual to have access to legal remedies and proceedings. Hence, any agreement that restricts this right is considered against public policy and therefore, unenforceable.

(iii) False. Contingent contracts are not void, but their enforceability depends upon the happening or non-happening of a specific event or condition. If the condition is not fulfilled, the contract becomes void. However, if the condition is fulfilled, the contract becomes enforceable.

Q1 b What is the difference between Mistake of Fact and Mistake of Law ? Give examples.

Ans**. Mistake of Fact** and **Mistake of Law** are two different concepts in the context of the law of contracts. The main difference between the two is that Mistake of Fact is an error made regarding a factual situation, while Mistake of Law is an error made regarding the law itself.

Mistake of Fact occurs when a party to a contract makes an erroneous assumption or belief about a factual situation. It can be either mutual or unilateral. Mutual mistake of fact is a situation where both parties to a contract make the same mistake, and the contract may be voidable if it satisfies the requirements of Section 20 of the Indian Contract Act, 1872. Unilateral mistake of fact occurs when one party makes a mistake, and the contract may be voidable if the mistake was material to the contract's terms and the other party had knowledge of the mistake. For example, if A agrees to sell a car to B, but both parties mistakenly believe that the car has a particular feature, which it does not have, then the contract can be avoided by either party.

Mistake of Law, on the other hand, occurs when a party makes an error regarding the legal implications of a particular situation. Mistake of law is generally not a valid defense in a contract dispute. For example, if A enters into a contract with B, but is unaware that the law requires him to have a license to engage in the activity in question, A cannot use his ignorance of the law as a defense in court.

In summary, the main difference between Mistake of Fact and Mistake of Law is that Mistake of Fact concerns a factual situation, while Mistake of Law concerns the law itself. Mistake of Fact can be a valid defense in some situations, while Mistake of Law is generally not a valid defense.

OR

Q1 a State with reasons in brief whether the following statements. Are True or False:

(iii) Quasi contracts are illegal contracts

(ii) Wagering. Agreements are void ab initio.

(iii) Consent is free when it is not caused by coercion or undue influence only.

Ans. (i) False. Quasi-contracts are not illegal contracts. They are based on the principle of equity, and are created by law to prevent unjust enrichment of a party at the expense of another. Quasi-contracts are not based on the agreement between the parties, but on the principle of restitution.

(ii) True. Wagering agreements are void ab initio under Section 30 of the Indian Contract Act, 1872. This is because wagering agreements are considered to be against public policy and have no legal backing. Wagering agreements involve betting on the outcome of an uncertain event, and as such, are considered to be speculative and not enforceable by law.

(iii) True. Consent is considered to be free when it is not obtained through coercion or undue influence. Coercion is defined in Section 15 of the Indian Contract Act, 1872 as the use of force or threats to obtain consent. Undue influence, on the other hand, is defined in Section 16 of the Act as the use of a position of power to influence the decision of the other party. If consent is obtained through coercion or undue influence, then it is not considered to be free, and any agreement based on such consent is voidable at the option of the aggrieved party.

Q1 b Explain in detail the position of minor in contract.

Ans. A minor is a person who has not yet attained the age of majority, which is 18 years of age under the Indian Majority Act, 1875. The position of a minor in a contract is different from that of an adult. The law recognizes that a minor is not yet capable of understanding the consequences of his actions, and therefore, a contract entered into by a minor is not binding on him, except in certain circumstances.

The following are the legal positions regarding a minor's contract:

Void Contract – Section 11 of the Indian Contract Act, 1872 states that a contract with a minor is void ab initio. It means that the contract is unenforceable and has no legal effect. The minor has the option to repudiate the contract at any time before attaining the age of majority or within a reasonable time thereafter.

Minor as a Beneficiary – A minor can be a beneficiary of a contract, even if he cannot be a party to the contract. For example, if a contract is entered into between two adults for the benefit of a minor, the minor can enforce the contract as a beneficiary, but he cannot be held liable under the contract.

Contracts for Necessaries – A minor can enter into a contract for necessaries, i.e., goods or services that are essential for his survival. In such cases, the minor is liable to pay for the goods or services, but only to the extent of their reasonable value. For example, if a minor purchases medicine, clothing, or food, he is liable to pay for these goods or services.

Minor in Partnership – A minor can be admitted to the benefits of a partnership, but he cannot be made personally liable for any losses or obligations of the partnership.

Minor's Liability for Tort – A minor can be held liable for a tort committed by him. A tort is a wrongful act that results in harm to another person or property. However, the minor's liability is limited to his personal assets and not to any inherited or gifted assets.

In summary, the position of a minor in a contract is that a contract entered into by a minor is voidable at the option of the minor. However, a minor can be held liable for necessaries and torts committed by him. Additionally, a minor can be admitted to the benefits of a partnership but cannot be made personally liable for any losses or obligations of the partnership.

Q2 a i) Differentiate between fraud and misrepresentation.

(ii) P applied for the post of Principal in a school. He was selected by the managing committee but no formal communication was sent to him. After some time, committee met and cancelled the appointment of P as the Principal. He came to know through

someone. He filed. A suit against the managing committee. Was he entitled to file a suit against the managing committee?

(iii) At the risk of his life, A saved B from a serious car accident. B promises to pay Rs10,000 to C (Son of A). B does not pay. Can C recover Rs10,000 from B ?.

Ans. (i) The following are the differences between fraud and misrepresentation:

Fraud:

Fraud is an act committed with an intent to deceive the other party.

Fraud involves making a false statement knowingly, or with reckless disregard for its truth.

The victim of fraud can rescind the contract and claim damages for the loss suffered.

Fraud is a criminal offense under the Indian Penal Code.

Misrepresentation:

Misrepresentation is an unintentional false statement made by one party to the other.

Misrepresentation can be made innocently, negligently or fraudulently.

The victim of misrepresentation can rescind the contract and claim damages for the loss suffered.

Misrepresentation is not a criminal offense.

(**ii**) In the given case, P was selected by the managing committee as the Principal of the school, but no formal communication was sent to him. Later, the committee met and cancelled his appointment. P came to know about this through someone and filed a suit against the managing committee.

P was entitled to file a suit against the managing committee because the managing committee had offered him the position of Principal, and he had accepted the offer. This created a contract between P and the managing committee. The managing committee's failure to communicate the decision of cancelling his appointment amounted to a breach of the contract. Therefore, P had the right to file a suit against the managing committee for the breach of the contract.

(iii) In the given case, A saved B from a serious car accident, and B promised to pay Rs10,000 to C, who is the son of A. However, B did not pay the promised amount.

C cannot recover Rs10,000 from B because there was no privity of contract between C and B. The promise was made by B to C, who was not a party to the original agreement between A and B. Therefore, C cannot enforce the promise made by B, and he has no right to claim the amount promised by B.

Q2 b Differentiate between contract of indemnity and contract of guarantee.

Ans. The following are the differences between contract of indemnity and contract of guarantee:

Definition:

A **contract of indemnity** is a contract in which one party promises to compensate the other party for any loss or damage suffered by him due to the conduct of the promisor or any other person.

A **contract of guarantee**, on the other hand, is a contract in which one party promises to be responsible for the debt or default of another person.

Parties Involved:

In a **contract of indemnity**, there are two parties involved- the indemnifier and the indemnified.

In a **contract of guarantee**, there are three parties involved- the principal debtor, the creditor and the surety.

Nature of Liability:

In a **contract of indemnity**, the indemnifier's liability arises after the loss or damage has already occurred.

In a **contract of guarantee**, the surety's liability arises if the principal debtor fails to ulfil his obligation.

Extent of Liability:

In a **contract of indemnity**, the indemnifier's liability is co-extensive with the actual loss suffered by the indemnified.

In a **contract of guarantee**, the surety's liability is limited to the amount of the guarantee.

Rights of the Parties:

In a contract of indemnity, the indemnified has the right to recover the actual loss suffered by him.

In a contract of guarantee, the surety has the right to recover from the principal debtor after he has paid the amount guaranteed to the creditor.

Mode of Operation:

In a **contract of indemnity**, the indemnifier undertakes to compensate the indemnified for the loss suffered by him.

In a **contract of guarantee**, the surety undertakes to ulfil the obligation of the principal debtor if he fails to do so.

In summary, a contract of indemnity is a promise to compensate for any loss or damage, while a contract of guarantee is a promise to be responsible for the debt or default of another person.

OR

Q2 a (i) "Ratification tantamount to prior authority." Comment.

Ans. The concept of ratification means the confirmation of an act that was done without the authority or consent of a person who is later entitled to give consent or authorization. In other words, it is the process of validating or confirming an act that was previously unauthorized or done without proper authority.

In the context of contract law, ratification means that a contract entered into by a person who was not authorized to do so can be subsequently ratified by the person who had the authority to enter into the contract. Once ratified, the contract becomes valid and binding, as if it had been authorized from the outset.

Therefore, the statement "Ratification tantamount to prior authority" is true. Ratification is the process of giving retrospective validity to an act done by someone who did not have the initial authority to do so. When a contract is ratified, it is treated as if it had been authorized from the beginning, and the person who ratified it is deemed to have given prior authority for the act.

In conclusion, ratification is a powerful tool in contract law that allows a person to give retrospective authority to an act that was previously unauthorized. Once ratified, the act becomes valid and binding, and the ratifier is treated as having given prior authority.

Q2 a (ii)C agreed to let out his musical hall to T for a series of concerts. The hall was accidently brunt before. the date of the first concert. T sued C for damages. for breach of contract. Can T recover damages for breach of contract?

(iii) X hires a car from. Y and agrees to pay hire charges off Rs1,000. The brake of the car is defective but Y is not aware of it. X uses the car and gets injured in an accident due to faulty brake of-the car. X claims compensation for the injuries suffered by him. Will he succeed?

Ans. (ii) In the given scenario, C agreed to let out his musical hall to T for a series of concerts but the hall was accidentally burnt before the date of the first concert. T sued C for damages for breach of contract.

In this case, C cannot be held liable for breach of contract as the destruction of the hall was due to an event that was beyond the control of both parties. The principle of "force majeure" or "act of god" will apply in this case. Force majeure means an event that is beyond the control of the parties, such as a natural disaster or an unforeseen accident, which makes it impossible for the parties to perform their obligations under the contract. Therefore, T cannot recover damages for breach of contract in this case.

(iii) In the given scenario, X hires a car from Y and agrees to pay hire charges of Rs1,000. The brake of the car is defective, but Y is not aware of it. X uses the car and gets injured in an accident due to the faulty brake of the car. X claims compensation for the injuries suffered by him.

In this case, Y can be held liable for negligence. As a car rental company, Y had a duty of care to ensure that the car was in a safe and roadworthy condition. Even if Y was not aware of the defect in the brake, he is still liable for the injuries suffered by X as a result of the defect. X can claim compensation for the injuries suffered by him as a result of the negligence of Y.

Therefore, X will succeed in claiming compensation for the injuries suffered by him in the accident due to the faulty brake of the car.

Q2 b Differentiate between actual breach and anticipatory breach.

Ans. In contract law, breach of contract occurs when one party fails to perform its obligations under a contract. Breach of contract can occur in two ways: actual breach and anticipatory breach.

Actual breach, also known as a present or immediate breach, occurs when one party fails to perform its obligations at the time they are due. For example, if Party A fails to deliver goods to Party B by the agreed-upon delivery date, it constitutes an actual breach of contract.

Anticipatory breach, also known as an imminent breach, occurs when one party clearly indicates that it will not be able to perform its obligations under the contract in the future. For example, if Party A informs Party B that it will not be able to deliver goods by the agreed-upon delivery date before the delivery date, it constitutes an anticipatory breach of contract.

The **main difference** between actual breach and anticipatory breach is the time at which the breach occurs. Actual breach occurs at the time when the performance is due, while anticipatory breach occurs before the performance is due.

Another difference is the remedies available to the non-breaching party. In the case of actual breach, the non-breaching party can sue for damages or specific performance. In the case of anticipatory breach, the non-breaching party can treat the contract as terminated and sue for damages immediately, without waiting for the actual breach to occur.

In summary, actual breach occurs when one party fails to perform its obligations at the time they are due, while anticipatory breach occurs when one party indicates that it will not be able to perform its obligations in the future.

Q3 a (i) When can a breach of condition be treated as breach of warranty ?

(ii) "Risk prima facie passes with property." Comment.

(iii) R bought a second-hand motor car from D and used it four months. It was discovered that D had no title to the car since it w a s the stolen one. On.

being compelled to return the car to the true owner, R sued D to recover the purchase price. Was R entitled to do so.

Ans. (i) In a contract, a condition is a term that is essential to the performance of the contract, while a warranty is a term that is not essential to the performance of the contract. If there is a breach of a condition, the innocent party can treat the contract as repudiated and claim damages for the breach. However, if the breach of condition is minor or can be remedied, the innocent party may treat it as a breach of warranty and claim damages for any loss suffered as a result of the breach.

For **example**, in a contract for the sale of a car, the condition may be that the car is roadworthy. If the car is not roadworthy, it would be a breach of condition, and the buyer could reject the car and claim damages for any loss suffered. However, if the car is not roadworthy due to a minor fault that can be repaired, the buyer may treat it as a breach of warranty and claim damages for the cost of the repairs.

(ii) The principle of "risk prima facie passes with property" means that once the property in goods has passed from the seller to the buyer, the risk of any loss or damage to the goods also passes to the buyer. This principle applies unless the parties have agreed otherwise or there is a statutory provision to the contrary.

For **example**, if a seller sells goods to a buyer and delivers them to a carrier for delivery to the buyer, the risk of loss or damage to the goods would pass from the seller to the buyer at the time of delivery to the carrier, even if the goods are damaged during transit. However, if the parties have agreed that the risk will not pass until the goods are delivered to the buyer's premises, the risk will not pass until that time.

(iii) In the given scenario, R bought a second-hand motor car from D and used it for four months. It was later discovered that D had no title to the car since it was stolen. When R was compelled to return the car to the true owner, he sued D to recover the purchase price.

Under the Sale of Goods Act, a buyer has the right to sue the seller for breach of contract if the seller does not have the right to sell the goods or the goods are not free from any charge or encumbrance. In this case, since D did not have the title to the car, he was in breach of contract, and R was entitled to sue him to recover the purchase price. However, R may also have a claim for damages for any loss suffered as a result of the breach, such as the cost of repairs, if any, or any other expenses incurred in using the car for four months.

Q3 b Distinguish between 'Sale' and "An agreement to sell'.

Ans. The primary difference between 'sale' and 'agreement to sell' is that in the case of 'sale,' the property in the goods is transferred from the seller to the buyer immediately, while in the case of an 'agreement to sell,' the property in the goods is to be transferred at a later date, subject to the fulfillment of certain conditions.

Some other differences between sale and an agreement to sell are:

Transfer of Ownership: In a sale, the ownership of the goods is transferred to the buyer immediately after the contract is made, whereas in an agreement to sell, the ownership is transferred at a future date.

Nature of Contract: Sale is an executed contract, whereas an agreement to sell is an executory contract.

Risk of loss: In the case of sale, the risk of loss is transferred to the buyer immediately after the contract is made, whereas in an agreement to sell, the risk of loss remains with the seller until the property in the goods is transferred to the buyer.

Insolvency of the seller: In the case of sale, if the seller becomes insolvent after the contract of sale is made, the buyer can keep the goods as his property. However, in the case of an agreement to sell, if the seller becomes insolvent before the transfer of property, the buyer becomes an unsecured creditor.

Damages: In the case of a breach of contract of sale, the buyer can claim damages immediately. However, in the case of an agreement to sell, the buyer can only claim damages after the property in the goods is transferred to him.

Performance: In a sale, the performance is completed as soon as the contract is made, while in an agreement to sell, the performance is not complete until the property in the goods is transferred to the buyer.

In conclusion, the primary difference between a sale and an agreement to sell is that in the former, the ownership is immediately transferred to the buyer, whereas in the latter, the transfer is subject to certain conditions.

OR

Q3 a Explain the rights of an unpaid seller against the goods.

Ans. An unpaid seller refers to a seller who has not received the full price of the goods from the buyer. The rights of an unpaid seller against the goods can be classified into two categories:

Rights before the goods are delivered:

a) Right of Lien: An unpaid seller has the right to retain the possession of the goods until he receives the full payment of the goods.

b) Right of Stoppage in transit: An unpaid seller can exercise the right of stoppage in transit if the goods are in the possession of a carrier or other bailee and the seller becomes aware that the buyer is insolvent.

Rights after the goods are delivered:

a) Right of Resale: An unpaid seller can resell the goods in the following circumstances:

i) Where the goods are of a perishable nature and the buyer has not paid for them.

ii) Where the seller has expressly reserved the right to resale in case the buyer defaults.

iii) Where the buyer has not paid the price within a reasonable time and the seller gives notice to the buyer of his intention to resell.

b) Right to Sue for Price: An unpaid seller can sue the buyer for the price of the goods if the following conditions are fulfilled:

i) The property in the goods has passed to the buyer.

ii) The buyer has refused or neglected to pay the price.

iii) The seller has given notice to the buyer of his intention to sue for the price.

c) Right to claim damages: An unpaid seller can claim damages from the buyer for any loss suffered due to the buyer's breach of contract.

d) Right to Reclaim the Goods: An unpaid seller can reclaim the goods from the buyer if the property in the goods has not passed to the buyer, and the buyer becomes insolvent.

In conclusion, an unpaid seller has various rights against the goods to protect his interests in case of the buyer's default. These rights include the right of lien, stoppage in transit, resale, sue for price, claim damages, and reclaim the goods.

Q3 b (i) Define the term "Delivery of Goods". State the different modes of effective delivery of goods.

(ii) X, the owner of a car, hands over the car to Y, a mercantile agent and gives him instructions to sell the car subject to a reserve price of Rs6 lac. Y sells the car to Z for Rs5 lac and misappropriates money. Z buys the car in good faith. Will Z get good title to the car ?

Ans. (i) Delivery of Goods refers to the transfer of possession of goods from one person to another. There are different modes of effective delivery of goods, which include:

Actual Delivery: Actual delivery of goods takes place when the goods are physically handed over by the seller to the buyer or to an agent authorized to take delivery on behalf of the buyer.

Constructive Delivery: Constructive delivery of goods takes place when the seller does not physically deliver the goods to the buyer but does something which is equivalent to or constitutes delivery. For example, when the seller delivers the keys of the warehouse where the goods are stored to the buyer, it amounts to constructive delivery.

Symbolic Delivery: Symbolic delivery of goods takes place when the seller delivers some symbol or token which represents the goods. For example, when the seller delivers the bill of lading, it amounts to symbolic delivery.

(ii) In the given case, X handed over the car to Y, a mercantile agent, and gave him instructions to sell the car subject to a reserve price of Rs6 lakh. Y sold the car to Z for Rs5 lakh and misappropriated the money. Z bought the car in good faith.

According to **Section 178** of the Indian Contract Act, 1872, a mercantile agent has the authority to sell the goods if he is in possession of the goods with the consent of the owner and is carrying on the business of selling goods of that kind. However, if the mercantile agent sells the goods in violation of his authority, the buyer does not get good title to the goods.

In this case, Y sold the car to Z for Rs5 lakh, which is less than the reserve price of Rs6 lakh. Therefore, Y sold the car in violation of his authority, and Z does not get good title to the car. X, the owner of the car, can recover the car from Z, even though Z bought it in good faith.

Q4 a Explain the provisions relating to voluntary winding up of LLP.

Ans. A Limited Liability Partnership (LLP) can be dissolved or wound up voluntarily by the partners or creditors in certain situations. Voluntary winding up can be either by the partners or the creditors of the LLP.

The provisions for voluntary winding up of LLP are mentioned in Section 64 of the Limited Liability Partnership Act, 2008. Following are the steps involved in voluntary winding up of LLP:

Passing a resolution: The partners of the LLP must pass a resolution to wind up the LLP voluntarily. The resolution must be passed by at least three-fourths of the total number of partners.

Declaration of solvency: In case the LLP has no liabilities or is able to pay its debts in full within 12 months, the partners can make a declaration of solvency. The declaration must be made within five weeks of passing the resolution to wind up the LLP. The declaration must be made in Form 2 and must be verified by an affidavit.

Appointment of liquidator: After passing the resolution, the partners must appoint a liquidator to wind up the affairs of the LLP. The liquidator can be any person who is eligible to be appointed as a liquidator under the Companies Act, 2013.

Intimation to the Registrar: Within 10 days of passing the resolution, the LLP must file a notice of the resolution with the Registrar of LLP in Form 3.

Meeting of creditors: In case the LLP is not able to pay its debts in full within 12 months or has any liabilities, the LLP must call a meeting of creditors within 10 days of passing the resolution. The creditors can appoint a liquidator of their choice.

Settlement of accounts: The liquidator must settle the accounts of the LLP and distribute the assets of the LLP among the partners or creditors, as the case may be, after payment of all liabilities.

Filing of documents: After completion of the winding-up process, the LLP must file the necessary documents with the Registrar of LLP, including a declaration of solvency or insolvency, as the case may be, and a statement of accounts.

In case of voluntary winding up, the partners or creditors have the right to apply to the Tribunal for supervision of the winding up process or for any other relief or remedy.

Q4 b (i)"A Limited Liability Partnership is. A legal entity distinct from its members taken individually or collectively." Comment.

(ii) What protection is provided by LLP Act to partners and employees regarding whistle blowing?

Ans. (i) A Limited Liability Partnership (LLP) is a separate legal entity, distinct from its partners, who are considered separate from the LLP itself. This means that the LLP can own property, sue and be sued, and enter into contracts in its own name. The liabilities of the LLP are limited to the extent of its assets, and the personal assets of the partners are protected from the creditors of the LLP. Therefore, the statement is true.

(ii) The LLP Act, 2008 provides protection to partners and employees who whistleblow on any illegal or unethical practices in the LLP. If any partner or employee discloses any such information in good faith, they are protected from any disciplinary or other action by the LLP. Additionally, if the partner or employee faces any retaliation or adverse action because of the disclosure, they can approach the National Company Law Tribunal (NCLT) for relief. The LLP Act also mandates the maintenance of a register of whistleblowers and provides for their confidentiality. Therefore, the LLP Act provides a comprehensive framework for the protection of whistleblowers in LLPs.

OR

Q4 a Explain the procedure and effects of conversion of a partnership into LLP as per LLP Act, 2008.

Ans. Conversion of a partnership firm into a Limited Liability Partnership (LLP) is governed by the Limited Liability Partnership Act, 2008. The procedure and effects of conversion are explained below:

Procedure of Conversion:

Obtain DPIN and DIN: All the designated partners of the partnership firm must obtain a Designated Partner Identification Number (DPIN) and a Director Identification Number (DIN).

Name availability: Check the availability of the proposed name of the LLP on the website of the Ministry of Corporate Affairs (MCA).

File form for conversion: File Form 17 (Application and Statement for Conversion of a Firm into LLP) along with Form 2 (Incorporation Document and Subscriber's Statement) with the Registrar of Companies (RoC) of the state where the registered office of the partnership firm is located.

Execution of LLP agreement: Prepare an LLP agreement and execute it within 30 days of the date of registration of the LLP.

Publish notice: Publish a notice about the conversion in at least one newspaper in English and a regional language in the state where the registered office of the LLP is located.

Effects of Conversion:

Transfer of property and liabilities: All the property, assets, interests, rights, privileges, liabilities, obligations, and debts of the partnership firm will be transferred to the LLP.

Continuation of legal proceedings: All the legal proceedings that were pending against the partnership firm may be continued against the LLP.

Taxation: The conversion will be regarded as a transfer of capital assets and will be subject to capital gains tax. However, there are certain exemptions available under the Income Tax Act, 1961.

Contracts and agreements: All the contracts, agreements, deeds, and other arrangements entered into by the partnership firm will be enforceable against the LLP.

Dissolution of partnership firm: The partnership firm will be deemed to be dissolved on the date of registration of the LLP.

In summary, conversion of a partnership firm into an LLP is a relatively simple process governed by the LLP Act, 2008. It provides several benefits such as limited liability and separate legal entity status, while preserving the tax benefits of a partnership.

Q4 b i)Explain the extent of liability of LLP.

(ii)What are the eligibility conditions for a designated partner under. the LLP Act?

Ans. (i) The liability of the partners in a Limited Liability Partnership (LLP) is limited to the extent of their agreed contribution in the LLP. The partners are not personally liable for the debts and obligations of the LLP beyond their agreed contribution. This means that the personal assets of the partners are not at risk if the LLP incurs losses or is unable to pay its debts. However, if any partner has acted with intent to defraud creditors of the LLP or for any other fraudulent purpose, then such partner shall be personally liable for such act.

(ii) According to the LLP Act, 2008, the eligibility conditions for a designated partner are as follows:

Every LLP must have at least two designated partners, who shall be individuals and at least one of them should be a resident of India.

A person shall not be eligible to become a designated partner of an LLP if:

a) He has been declared to be of unsound mind by a court of competent jurisdiction;

b) He is an undischarged insolvent;

c) He has applied to be adjudicated as an insolvent and his application is pending;

d) He has been convicted of an offence which involves moral turpitude and sentenced to imprisonment for a period of six months or more;

e) He has not obtained a Director Identification Number (DIN) or has been disqualified to act as a director under the Companies Act, 2013;

f) He has been removed from the office of the designated partner or director of any LLP or company or disqualified to act as a designated partner or director of any LLP or company.

It is important to note that a designated partner of an LLP has the same responsibilities and obligations as a director of a company. They are responsible for the overall management and affairs of the LLP and are liable for any non-compliance or contravention of the provisions of the LLP Act.

Q5 a What is E-Governance? How does IT Act, 2000 facilitate e-governance ?

Ans. E-Governance refers to the use of electronic communication technologies, such as the internet, to improve and enhance the delivery of government services to citizens. It is a process of transforming traditional government services into more accessible and transparent services by leveraging information and communication technologies (ICTs).

The Information Technology Act, 2000 (IT Act) facilitates e-governance by providing legal recognition and regulatory framework for electronic transactions, electronic signatures, and electronic documents. It creates a legal framework for e-governance initiatives, including the use of electronic documents and signatures, electronic delivery of government services, and the establishment of legal and institutional mechanisms for electronic governance.

The IT Act also establishes the Controller of Certifying Authorities (CCA) and the Certifying Authorities (CAs) to regulate and monitor the use of digital signatures and certificates. It enables the use of electronic signatures for transactions and documents in government services, reducing the need for physical documents and signatures.

Overall, the IT Act provides a legal framework for e-governance and enables the use of ICTs to improve the delivery of government services and make them more accessible and transparent to citizens.

Q5 b Discuss the objects of IT Act, 2000.

Ans. The Information Technology Act, 2000 was enacted with the primary objective of providing a legal framework to facilitate e-commerce transactions and promote e-governance in India. The Act also aims to recognize and facilitate electronic records and digital signatures, as well as provide for the establishment of a Cyber Appellate Tribunal to deal with disputes arising from cybercrimes.

Some of the key objectives of the IT Act, 2000 are as follows:

Legal Recognition of Electronic Transactions: The Act seeks to recognize electronic records and digital signatures as a legal means of conducting transactions, and to remove any legal barriers that may hinder their acceptance in courts of law.

Facilitating E-Commerce: The Act provides for the legal recognition of electronic contracts, and electronic transfer of funds, thereby facilitating e-commerce transactions in India.

Prevention of Cybercrime: The Act seeks to address cybercrime by providing for the establishment of a Cyber Appellate Tribunal, which has the power to adjudicate disputes arising from cybercrimes.

Data Protection and Privacy: The Act provides for the protection of personal data and privacy of individuals in the context of electronic transactions.

Promotion of E-Governance: The Act aims to promote e-governance in India by providing legal recognition to electronic records, digital signatures, and other forms of electronic communication.

In summary, the IT Act, 2000 aims to provide a comprehensive legal framework for electronic transactions and communication in India, and to facilitate the growth of e-commerce and e-governance in the country.

OR

Q5 a i) The Appellate Tribunal has the same powers as a Civil Court but an aggrieved party may appeal to the High Court.

(ii) Explain the meaning and punishment for publishing or transmitting obscene material in electronic form.

(iii) Define the terms: Computer Resource and Intermediary

Ans. (i) The statement is partially true. The Appellate Tribunal established under the Information Technology Act, 2000 has certain powers similar to that of a Civil Court, such as the power to summon and enforce attendance of witnesses and to compel the production of documents. However, an aggrieved party may not appeal directly to the High Court against the decision of the Appellate Tribunal. An appeal against the order of the Appellate Tribunal may be filed only with the concerned High Court within whose jurisdiction the Appellate Tribunal is situated.

(ii) Section 67 of the Information Technology Act, 2000 deals with the punishment for publishing or transmitting obscene material in electronic form. It states that any person who publishes or transmits or causes to be published or transmitted, in electronic form, any material which is lascivious or appeals to the prurient interest or if its effect is such as to tend to deprave and corrupt persons who are likely to read, see or hear the matter contained or embodied in it, shall be punished on first conviction with imprisonment of either description for a term which may extend to three years and with fine which may extend to five lakh rupees and in the event of a second or subsequent conviction with imprisonment of either description for a term which may extend to five years and also with a fine which may extend to ten lakh rupees.

(iii) Computer Resource means computer, computer system, computer network, data, computer database or software. Intermediary means any person who on behalf of another person receives, stores or transmits that record or provides any service with respect to that record and includes telecom service providers, network service providers, internet service providers, web-hosting service providers, search engines, online payment sites, online-auction sites, online-market places and cyber cafes.

Q5 b What are the functions of. Controller of Certifying Authority ?

Ans. The Controller of Certifying Authorities (CCA) is a key authority under the Information Technology Act, 2000. The main functions of the Controller of Certifying Authority are:

Licensing of Certifying Authorities: The Controller of Certifying Authority is responsible for issuing licenses to Certifying Authorities (CAs). The license is granted based on the applicant's ability to meet certain requirements and conditions specified in the IT Act.

Regulating the working of CAs: The Controller of Certifying Authority is responsible for monitoring and regulating the working of Certifying Authorities in India. This includes ensuring that CAs comply with the rules and regulations related to digital signatures and electronic transactions.

Setting standards and guidelines: The Controller of Certifying Authority is responsible for setting standards and guidelines for the operation of CAs in India. These guidelines are meant to ensure that CAs issue digital certificates in a secure and trustworthy manner.

Resolving disputes: The Controller of Certifying Authority is responsible for resolving disputes between Certifying Authorities and other stakeholders in the digital signature ecosystem. This includes disputes related to the issuance and revocation of digital certificates.

Investigating violations: The Controller of Certifying Authority has the power to investigate violations of the IT Act related to digital signatures and electronic transactions. This includes the power to conduct inspections of Certifying Authorities and take action against them if they are found to be in violation of the law.